

CURTIS, MALLET-PREVOST,**COLT & MOSLE LLP**

101 Park Avenue

New York, New York 10178-0061

Telephone: (212) 696-6000

Facsimile: (212) 697-1559

Steven J. Reisman (SR 4906)

L.P. Harrison 3rd (LH 5540)

Jerrold L. Bregman (JB 0784)

*Attorneys for PlusFunds Group, Inc.*UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x	
In re:	: Chapter 11
	: Case No. 05-60006 (RDD)
REFCO INC., <u>et al.</u> ,	: (Jointly Administered)
	: Debtors.
	: -----x

**CLAIMANT-APPELLANT'S DESIGNATION OF
RECORD ON APPEAL AND STATEMENT OF ISSUES TO BE PRESENTED**

Claimant-Appellant PlusFunds Group, Inc. ("PlusFunds"), pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, hereby provides its (i) designation of items to be included in the record on appeal and (ii) statement of issues with respect to the Order Granting the Plan Administrators' Motions for Summary Judgment on Proofs of Claim of PlusFunds Group, Inc., entered on July 20, 2007 (Docket No. 5600), and all interim oral rulings made at hearings made at hearings on February 13, 2007 (Docket No. 4669), April 12, 2007 (Docket No. 5159), and May 3, 2007 (Docket No. 5240).

A. Designation of Record

The following items are to be included in the record on appeal:

1. Proof of Claims of PlusFunds Group, Inc. (Claim Nos. 11,289 Through 11,311)
2. Amended Proof of Claim of PlusFunds Group, Inc. (Claim No. 14,450)
3. Proof of Claim of PlusFunds Group, Inc. in Refco, LLC (Claim No. 10)

4. Amended Proof of Claim of PlusFunds Group, Inc. in Refco, LLC (Docket No. 669)
5. Emergency Motion of RCM Trustee for Order Setting Expedited Schedule for Estimation of PlusFunds' Proof of Claim for the Purpose of Establishing Reserves (Docket No. 3326)
 - Exhibit A. Order to Show Cause Concerning RCM Trustee's Motion for Order Setting Expedited Schedule for Estimation of PlusFunds Group, Inc.'s Claim for the Purpose of Establishing Reserves
6. Order to Show Cause Concerning RCM Trustee's Motion for Order Setting Expedited Schedule for Estimation of PlusFunds Group, Inc.'s Claim for the Purpose of Establishing Reserves (Docket No. 3329)
7. Amended Order to Show Cause Concerning RCM Trustee's Motion for Order Setting Expedited Schedule for Estimation of PlusFunds Group, Inc.'s Claim for the Purpose of Establishing Reserves (Docket No. 3334)
8. Debtors' Motion For Order Under 11 U.S.C. § 502 And Fed. R. Bankr. P. 3007 Disallowing And Expunging Proofs Of Claim Of PlusFunds Group, Inc. (Nos. 11288, 11290 Through 11311) (Docket No. 3460)
 - Exhibit A. Notice of Debtors' Motion for Order Under 11 U.S.C. § 502 and Fed R. Bankr. P. 3007 Disallowing and Expunging Proofs of Claim of PlusFunds Group, Inc. (Nos. 11288, 11290 through 11311)
 - Exhibit B. Order Under 11 U.S.C. § 502 and Fed R. Bankr. P. 3007 Disallowing and Expunging Proofs of Claim of PlusFunds Group, Inc. (Nos. 11288, 11290 through 11311)
9. Order Setting Expedited Schedule Concerning PlusFunds Group, Inc.'s Claim (Docket No. 3462)
10. Motion to Amend Proofs of Claim (Nos. 11288 through 11311) of PlusFunds Group, Inc. (Docket No. 3575)
11. Affidavit of L.P. Harrison 3rd in Support of Order Fixing a Date and Time For a Hearing to Consider PlusFunds Group, Inc.'s Motion to Amend Its Proofs Of Claim (Nos. 11288 Through 11311) (Docket No. 3576)
12. PlusFunds Group, Inc.'s Response to RCM Trustee's Objection and Emergency Motion For Order Setting Expedited Schedule for Estimation of PlusFunds' Proof Of Claim For The Purpose Of Establishing Reserves (Docket No. 3580)
13. Order to Show Cause Fixing a Date and Time for a Hearing to Consider PlusFunds Group, Inc.'s Motion to Amend its Proof of Claim (Docket No. 3581)
14. PlusFunds Group, Inc.'s Objection to Confirmation of the Joint Plan of Reorganization of Refco Inc. and Certain of Its Direct and Indirect Subsidiaries (Docket No. 3657)

15. Motion for an Order Temporarily Allowing Claims of PlusFunds Group, Inc. for Purposes of Voting on the Modified Plan of Reorganization Pursuant to Bankruptcy Rule 3018 (Docket No. 3701)
 - Exhibit A. Order Temporarily Allowing Claims of PlusFunds Group, Inc. for Purposes of Voting on the Modified Plan of Reorganization Pursuant to Bankruptcy Rule 3018
 - Exhibit B. Notice of Motion for an Order Temporarily Allowing Claims of PlusFunds Group, Inc. for Purposes of Voting on the Modified Plan of Reorganization Pursuant to Bankruptcy Rule 3018
16. Stipulation and Order Regarding Proofs of Claim of PlusFunds Group, Inc. (Docket No. 3814)
17. Order Temporarily Allowing Claims of PlusFunds Group, Inc. for Purposes of Voting on the Modified Plan of Reorganization Pursuant to Bankruptcy Rule 3018 (Docket No. 4126)
18. RCM Trustee's Motion to Disallow Proof of Claim of PlusFunds Group, Inc., As Amended (Docket No. 4297)
19. PlusFunds Group, Inc.'s Response to RCM Trustee's Motion to Dismiss PlusFunds' Proof of Claim (Docket No. 4335)
20. RCM Trustee's Reply in Further Support of Motion to Disallow Proof of Claim of PlusFunds Group, Inc., as Amended (Docket No. 4389)
21. Second Amended Proof of Claim of PlusFunds Group, Inc. (Docket No. 4443)
22. Refco Plan Administrator's Motion, with Respect to Proofs of Claim Nos. 11288 and 11290 through 11311, For Summary Judgment Disallowing Proofs of Claim of PlusFunds Group, Inc. (Docket No. 4646)
23. RCM Trustee's Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc. (Docket No. 4623)
 - Exhibit A. Notice of RCM Trustee's Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc.
 - Exhibit B. RCM Trustee's Statement of Uncontested Facts in Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc.
 - Exhibit C. RCM Trustee's Memorandum of Law in Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc.
 - Exhibit D. Order Granting RCM Trustee's Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc.
24. Declaration of Jason L. Watkins (Docket No. 4624)
 - Exhibit A. Deposition of H. Christopher Rose (February 10, 2006)
 - Exhibit B. Letter Dated January 1, 2004

Exhibit C. Transcript of Motions to Disallow Claims and Approve Settlement Agreement Held on February 13, 2007

Exhibit D. Letter Dated February 23, 2004

25. PlusFunds Group, Inc.'s Opposition to the RCM Trustee's Motion for Summary Judgment to Disallow its Second Amended Proof of Claim (Docket No. 4752)

Exhibit A. Statement of Claimant PlusFunds Group, Inc., Pursuant to Fed. R. Bankr. P. 7056 and Local Rule 7056-1 in Opposition to the RCM Trustee's Motion for Summary Judgment

Exhibit B. Declaration of Florence V. Lentini in Opposition to the RCM Trustee's Motion for Summary Judgment

Exhibit C. Declaration of H. Christopher Rose in Opposition to the RCM Trustee's Motion for Summary Judgment

26. RCM Trustee's Reply in Further Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc. (Docket No. 4855)

27. Transcript Of Hearing on Motion For Summary Judgment With Respect To Proofs Of Claim Nos. 11288 and 11290 Through 11311 Disallowing Proofs Of Claim Of PlusFunds Group, Inc.; Motion To Allow Amended Proof Of Claim Of Plus Funds Group, Inc., PlusFunds Group, Inc.'s Opposition to the RCM Trustee's Motion for Summary Judgment to Disallow its Second Amended Proof of Claim; Trustee's Reply in Further Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc. (Docket No. 5159)

28. RCM Plan Administrator's Amended Memorandum of Law in Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc. (Docket No. 5256)

Exhibit A. RCM Plan Administrator's Revised Statement of Uncontested Facts in Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc.

Exhibit B. Declaration of Dennis C. O'Donnell in Support of RCM Trustee's Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc.

Exhibit C. Declaration of Jason L. Watkins in Further Support of Motion for Summary Judgment.

29. Opposition of PlusFunds Group, Inc., to the RCM Plan Administrator's Renewed Motion for Summary Judgment to Disallow its Second Amended Proof of Claim (Docket No. 5363)

30. Statement of Claimant PlusFunds Group, Inc., Pursuant to Fed. R. Bankr. P. 7056 and Local Rule 7056-1, in Opposition to the RCM Plan Administrator's Motion for Summary Judgment (Docket No. 5364)

31. Second Declaration of H. Christopher Rose in Opposition to the RCM Plan Administrator's Motion for Summary Judgment (Docket No. 5365)

- 32. Second Declaration of Florence V. Lentini in Opposition to the RCM Plan Administrator's Motion for Summary Judgment (Docket No. 5366)
- 33. Declaration of L.P. Harrison 3rd in Opposition to the RCM Plan Administrator's Motion for Summary Judgment (Docket No. 5367)
 - Exhibit A. Continuation of Exhibits
- 34. RCM Plan Administrator's Reply to Opposition to Renewed Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc. (Docket No. 5457)
 - Exhibit A. Declaration of Jason L. Watkins in Further Support of Motion for Summary Judgment
 - Exhibit B. Deposition of Richard C. Butt (February 27, 2006)
- 35. Transcript of Hearing Held (June 28, 2007) (Docket No. 5673)
- 36. Order Granting The Plan Administrators' Motion for Summary Judgment on Proofs of Claim of PlusFunds Group, Inc. (Docket No. 5600)
- 37. Notice of Appeal (Docket No. 5631)
 - Exhibit A. Order Granting the Plan Administrator's Motions for Summary Judgment on Proofs of Claim of PlusFunds Group, Inc.
 - Exhibit B. Transcript of Motions to Disallow Claims and Approve Settlement Agreement (February 13, 2007)
 - Exhibit C. Transcript of Hearing on Motion for Summary Judgment with respect to Proofs of Claim Nos. 11288 and 11290 through 11311 Disallowing Proofs of Claim of PlusFunds Group, Inc.; Motion to Allow Amended Proof of Claim of PlusFunds Group Inc.; PlusFunds Group, Inc.'s Opposition to the RCM Trustee's Motion for Summary Judgment to Disallow its Second Amended Proof of Claim; Trustee's Reply in Further Support of Motion for Summary Judgment on Proof of Claim of PlusFunds Group, Inc. (April 12, 2007)
 - Exhibit D. Transcript of Status Conference (May 3, 2007)

PlusFunds reserves the right to amend this Designation of Record.

B. Statement of Issues

- 1. Whether the bankruptcy court erred as a matter of law in an oral conclusion of law on February 13, 2007, that PlusFunds had not pleaded a breach of contract (the "Contract") between PlusFunds, on the one hand, and Refco Capital Markets Ltd. ("RCM") and/or Refco LLC ("LLC"), on the other.
- 2. Whether the bankruptcy court erred as a matter of law in an oral conclusion of law on April 12, 2007, that no breach of the Contract by RCM and/or LLC could have occurred prior to October 2005.

3. Whether the bankruptcy court erred as a matter of law in an oral conclusion of law on April 12, 2007, denying PlusFunds' request for discovery under Fed. R. Civ. P. 56(f) and Fed. R. Bankr. P. 7056, where no discovery had been had in the matter, prior to requiring PlusFunds to respond to the RCM Plan Administrator's motion for summary judgment against PlusFunds' proofs of claim that alleged RCM's and/or LLC's breach of the Contract.
4. Whether the bankruptcy court erred as a matter of law in issuing an Order, entered July 20, 2007, granting the RCM Plan Administrator's motion for summary judgment against PlusFunds' proofs of claim alleging RCM's and/or LLC's breach of the Contract.

PlusFunds reserves the right to supplement or amend this Statement of Issues.

Dated: August 9, 2007
New York, New York

CURTIS, MALLET-PREVOST,
COLT & MOSLE LLP

By: /s/ L.P. Harrison 3rd

Steven J. Reisman (SR 4906)
L.P. Harrison 3rd (LH 5540)
Jerrold L. Bregman (JB 0784)
101 Park Avenue
New York, New York 10178-0061
Telephone: (212) 696-6000
Facsimile: (212) 697-1559

Attorneys for PlusFunds Group, Inc.

Of Counsel:

Robert E. Malchman (RM-3641)
500 Fifth Avenue, Suite 1410
New York, New York 10110
Telephone: (646) 281-5915
Facsimile: (212) 789-8718